IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

MONDAY, THE 13TH AUGUST 2007 / 22ND SRAVANA 1929

WP(C).No. 13388 of 2006(R)

PETITIONER:

SARALA PALANI, W/O.LATE KUNJAN PALANI, CHIRAYILVELI, PUNNAPRA, NOW RESIDING AT THOTTUKADAVU, PARAVOOR P.O. ALAPPUZHA.

BY ADV. SRI.K.K.SATHEESH.

RESPONDENTS:

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1. **THE STATE OF KERALA, REPRESENTED BY THE SECRETARY, GENERAL ADMINISTRATION (FFP.B) DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.**
2. **THE DISTRICT COLLECTOR, ALAPPUZHA.**

BY GOVERNMENT PLEADER SMT. N. SUDHA DEVI.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13/08/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.13388/2006:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER'S LATE HUSBAND TO THE R.2. THROUGH THE TAHSILDAR OF AMBALAPUZHA DTD. 30/05/11981.

EXT.P.2: COPY OF THE PKC ISSUED BY SRI. P.K. CHANDRANANDAN MLA DTD. 28/05/1981.

EXT.P.3: COPY OF THE NARC ISSUED BY THE CJM COURT, ALAPPUZHA.

EXT.P.4: COPY OF THE AFFIDAVIT SUBMITTED BY THE PETITIONER'S LATE HUSBAND TO THE R.2. DTD. 02/06/1981.

EXT.P.5: COPY OF THE LETTER NO. D. DIS. 57637/89/H4 DTD. 28/08/1989 ISSUED BY THE R.2.

EXT.P.6: COPY OF THE REPRESENTATION DTD. 28/03/2006 SUBMITTED BY THE PETITIONER TO THE R.2.

EXT.P.7: COPY OF THE PKC ISSUED BY SRI. H.K. CHAKRAPANI DTD. 19/03/2006.

EXT.P.8: COPY OF THE ORDER OF SANCTION OF CENTRAL PENSION ISSUED BY THE MINISTRY OF HOME AFFAIRS, NEW DELHI DTD. 18/06/2003 IN RESPECT OF THE CERTIFIER SRI. H.K. CHAKRAPANI.

EXT.P.9: COPY OF THE EXTRACT OF THE CONVICT REGISTER OF CENTRAL PRISON, TRIVANDRUM ISSUED BY THE SUPDT. IN RESPECT OF THE CERTIFIER SRI. H.K. CHAKRAPANI.

EXT.P.10: COPY OF THE COMMUNICATION NO. H4.16164/2006 K. DIS. DT. 02/05/2006 ISSUED BY THE R.2. TO THE PETITIONER.

EXT.P.11: COPY OF THE LETTER NO. 63819/FFP.B3/05/GAD DTD. 30/10/2006 ISSUED BY THE R.1.

//TRUE COPY//

prv.

T.R.RAMACHANDRAN NAIR, J.

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WP(C).No. 13388 of 2006-R.

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Dated this the 13th day of August, 2007.

J U D G M E N T

The petitioner is the widow of late Sri.Kunjan Palani who was a freedom fighter and had actively participated in the Punnapra-Vayalar Movement. The case of the petitioner is that an arrest warrant was issued against him by the then Special First Class Magistrate, Alappuzha in connection with Case No.P.E.7/1122 ME.

2. The late husband of the petitioner had applied for pension as per Ext.P1 application dated 30.5.1981. It was accompanied by Ext.P2 personal knowledge certificate (PKC) from Sri.P.K.Chandranandan, MLA. Ext.P3 is the Non-availability of Records Certificate (NARC) issued by the Chief Judicial Magistrate Court, Alappuzha and Ext.P4 is the affidavit accompanying the same. It was rejected by Ext.P5 stating that acceptable certificates have not been produced.

3. Meanwhile, the petitioner's husband expired on 16.8.1999. The petitioner has produced fresh materials by way of certificate Ext.P7, the personal knowledge certificate from Sri.H.K.Chakrapani Ext.P8, the order sanctioning SSS pension to Sri.H.K.Chakrapani and Ext.P9 the extract of the Convict Register relating to Sri.H.K.Chakrapani. But still by Ext.P10 the

application is not recommended on account of not having produced the official records namely, jail records/court records, arrest warrant, etc.

4. The learned counsel for the petitioner submits that the stand taken in Ext.P10 is not correct. It is submitted that the first application was dated 30.5.1981 which is evidenced from Exts.P1 and P2 as well as Ext.P5. Therefore, at any rate the application had to be considered favourably in the light of the certificate submitted in the form by Sri.H.K.Chakrapani along with other details of the certifier.

5. In the counter-affidavit the main reason stated is that, as per Government circular dated 31.12.1993 it is required that application/review/appeal petitions received after 31.3.1994 will be considered only on production of documentary evidence from official records such as warrant of arrest, court records, jail records, etc. It is therefore submitted that unless the petitioner is able to produce those official records the application cannot be considered and the benefit cannot be granted. The said ground is not available here as the first application is on 30.5.1981. Hence the terms of the Circular cannot apply. Further the Circular cannot modify the Scheme.

6. In a similar case in WP(C).No.26694/2003 filed by Sri.P.K.Chellappan wherein also the certificate relating to Sri.H.K.Chakrapani was relied upon this Court by judgment dated 10.7.2006

had directed the State Government to reconsider the claim of the petitioner therein in accordance with law, based on the new materials produced. The learned counsel for the petitioner submits that Ext.P11 produced herein namely, the Government letter No.63819/FFP.B3/05/GAD dated 30.10.2006 will show that Sri.P.K.Chellappan was granted pension by the Government.

7. In the light of the above, the petitioner is also entitled for a similar treatment. Hence Ext.P10 is quashed and there will be a direction to the respondents to consider and pass orders on the applications submitted by the petitioner on its merit in the light of the fact that in the case of Sri.P.K.Chellappan as evidenced by Ext.P11 the same was granted. Appropriate orders shall be passed within a period of two months from the date of receipt of a copy of this judgment.

T.R.RAMACHANDRAN NAIR, JUDGE.

Kvs/-